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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,895

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Fumitaka Ishiguro

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05/23/2006

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP  
100 GALLERIA PARKWAY, NW  
STE 1750  
ATLANTA, GA 30339-5948

EXAMINER

THANH, QUANG D

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/748,895	ISHIGURO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Quang D. Thanh	3764	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This office action is responsive to the preliminary amendment filed on 1/23/04. As directed by the amendment, new claims 15-16 have been added. Thus, claims 1-16 are presently pending in this application.

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Specification***

2. The abstract of the disclosure is objected to because "A massage device. The massage device includes " should be replaced with -- A massage device includes --. Correction is required. See MPEP § 608.01(b).

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.
5. Re claims 1 and 8, the phrase "facing two (or three) intended locations" is unclear as to what structures ? (the rollers ? the protrusion ?) facing the intended

Art Unit: 3764

locations; the phrase "generating **pressure** ? higher than pressure exerted by a surface of the sole of the foot" is unclear as to what structure ? is generating this pressure and also what kind of pressure ?; and how the "**pressure** ? exerted by a surface of the sole of the foot" is created (is it created by the weight of the foot ? or other structures are involved in creating this pressure?).

6. Re claims 5-7 and 12-16, the phrase "a driving locus ? closer to a therapeutic portion ?" is unclear as to what is a driving locus (locus for driving what ?), and is unclear as to a therapeutic portion of what element ? It is also unclear to the examiner what is being claimed in the phrase "one of the rollers has a protrusion facing the arch of the foot and a driving locus closer to a therapeutic portion than **a driving locus** ? of **a protrusion** ? on one of the rollers (other rollers ?) facing a foot portion other than the arch".

The rest of the claims are also rejected because they depend from the rejected claims.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 3,5,7-8, 10,12, and 14, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Chiou (GB 2246298 A).

9. Re claims 1 and 8, as best understood, Chiou discloses a sole-massaging device (fig. 3), comprising: a driving mechanism (turbine); and a plurality of rollers (left and right rollers, fig. 3), each having a therapeutic protrusion 44; and when a foot is placed on the roller (p. 3, lines 79-83), then the roller inherently would be facing two or three intended locations of a sole, an arch and a heel of a foot, generating a pressure (produced when the protrusion 44 massaging against the foot) higher than a normal pressure exerted by a weight of the foot; wherein the rollers are rotatably driven in a predetermined direction by the driving mechanism (p. 2-3, lines 60-78) .

10. Re claims 3, 5, 7, 10, 12 and 14, as best understood, Chiou discloses the therapeutic protrusion 44 on the rollers is disposed on an outer surface thereof, and freely supported (via 42, fig. 3) by the roller ; wherein the rollers include a plurality of rotational shafts 34 (left and right, fig. 3), disposed on the same level (fig. 3); wherein one of the rollers has a protrusion 44 facing the arch of the foot.

11. Claims 1, 3,5,7-8, 10,12, and 14, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (6,599,261)

12. Re claims 1 and 8, as best understood, Chen discloses a sole-massaging device (fig. 5), comprising: a driving mechanism 10 ; and a plurality of rollers (left and right rollers, fig. 5), each having a therapeutic protrusion 36; and when a foot is placed on the roller (p. 5), then the roller inherently would be facing two or three intended

Art Unit: 3764

locations of a sole, an arch and a heel of a foot (best seen in fig. 5), generating a pressure (produced when the protrusion 36 massaging against the foot) higher than a normal pressure exerted by a weight of the foot; wherein the rollers are rotatably driven in a predetermined direction by the driving mechanism (fig. 2) .

13. Re claims 3, 5, 7, 10, 12 and 14, as best understood, Chen discloses the therapeutic protrusion 36 on the rollers is disposed on an outer surface thereof, and freely supported (fig. 2) by the roller ; wherein the rollers include a plurality of rotational shafts 20 (left and right, fig. 5), disposed on the same level (fig. 5); wherein one of the rollers has a protrusion 36 facing the arch of the foot (fig. 5).

14. Claims 1-16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Pannetier (4,127,116)

15. Re claims 1-2 and 8-9, as best understood, Pannetier discloses a massaging device (fig. 1), comprising: a driving mechanism 18/19/20 (fig. 1); and a plurality of rollers 9 and 10 (fig. 1), each having a therapeutic protrusion 14 ( (fig. 1); and is capable of applying massage to a foot , thus when the roller 9 or 10 is applied against the bottom surface of the foot then the roller inherently would be facing two or three intended locations of a sole, an arch and a heel of a foot, generating a pressure (produced when the protrusion 14 massaging against the foot) higher than a normal pressure exerted by a weight of the foot; wherein the rollers are rotatably driven in a predetermined direction by the driving mechanism; and wherein any two adjacent

Art Unit: 3764

rollers 9 and 10 are rotatably driven in opposite directions (along arrows 15 and 16 as shown in fig. 1).

16. Re claims 3-7 and 10-16, as best understood, Pannetier discloses the therapeutic protrusion 14 on the rollers is disposed on an outer surface thereof, and freely supported by the roller (via shaft 13, fig. 2); wherein the rollers include a plurality of rotational shafts 7 and 8 (fig. 1), disposed on the same level (fig. 1); wherein one of the rollers has a protrusion 14 capable of facing the arch of the foot.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hsieh '361 discloses a leg massage device.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 3764

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Quang D. Thanh  
Primary Patent Examiner  
Art Unit 3764  
(571) 272-4982



QUANG D. THANH  
PRIMARY EXAMINER